

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

March 26, 2007

MISC. ORDER 2007-006

BY THE COURT:

Associate Justice Vance Raye is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on March 29 through April 6, 2007, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Morrison, Associate Justice; and Harper, bailiff.

C050795 THE PEOPLE v. RANSOM

Cause called. Oliver Northrup, court appointed counsel, argued for appellant. Jennifer M. Poe, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:43 a.m., the court recessed. At 9:46 a.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Butz, Associate Justice.

**C051868 THE PEOPLE ex rel. BILL LOCKYER, as Attorney General, etc. v.
POWEREX CORPORATION**

Cause called. Song J. Hill, Deputy Attorney General, argued and Myung J. Park, Deputy Attorney General, appeared only for appellant. Andrew M. Edison argued and John A. Mason appeared only for respondent. Cause submitted.

**C052781 TIMOTHY J. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and
THE PEOPLE**

**C052711 DANTE H. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and THE
PEOPLE**

Cause called. Arthur L. Bowie argued for petitioners. Angelo S. Edralin, Deputy Attorney General, argued for real party in interest. Cause submitted.

At 10:32 a.m., the court recessed. At 10:42 a.m., the court reconvened with Morrison, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

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**C052238 CEQUEL III COMMUNICATIONS I v. LOCAL AGENCY FORMATION
COMMISSION OF NEVADA COUNTY and TRUCKEE DONNER PUBLIC
UTILITY DISTRICT et al.**

Cause called. Richard R. Patch argued and Craig A. Diamond appeared only for appellant. Nancy C. Miller argued and Steven C. Gross appeared only for real party in interest-respondent Truckee Donner. P. Scott Browne argued and Sabrina L. Feve appeared only for respondent. Cause submitted.

At 11:15 a.m., the court recessed until 9:30 a.m., Monday, April 16, 2007.

C049297 THE PEOPLE v. JOHNSON (Not for Publication)

Defendant's conviction for the necessarily included offense of embezzlement is reversed and dismissed. The jury's findings on the special allegations attached to the embezzlement court are likewise reversed. The trial court shall prepare an amended abstract of judgment accordingly and forward a certified copy to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Nicholson, Acting P.J.
Butz, J.

C050390 THE PEOPLE v. GOMEZ (Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

We Concur: Morrison, J.
Hull, J.

C051027 THE PEOPLE v. RUBIO (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Sims, Acting P.J.
Hull, J.

C051144 THE PEOPLE v. RAINES (Not for Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Nicholson, Acting P.J.
Hull, J.

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- C051719 THE PEOPLE v. KEY (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.
- C051969 THE PEOPLE v. GUERRERO (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment... The trial court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
ROBIE, J.
We Concur: Sims, Acting P.J.
Nicholson, J.
- C052337 THE PEOPLE v. SOHAL (Not for Publication)**
The judgment is modified... As modified, the judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Sims, Acting P.J.
Butz, J.
- C052982 THE PEOPLE v. KAPPESER-SCHRUM (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We Concur: Scotland, P.J.
Nicholson, J.
- C053249 THE PEOPLE v. DORSEY (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment... and to forward a certified copy to the Department of Corrections and Rehabilitation. The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Raye, J.
Cantil-Sakauye, J.
- C051576 In re E.S.; THE PEOPLE v. E.S. (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Cantil-Sakauye, J.

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C051595 In re DONNICIA G.; THE PEOPLE v. DONNICIA G.

(Not for Publication)

The judgment is modified... As so modified, the adjudication is affirmed. The matter is remanded to the juvenile court for a new dispositional hearing. At that hearing, the juvenile court shall not impose a criminal laboratory analysis fee...

BUTZ, J.

We Concur: Blease, Acting P.J.
 Cantil-Sakauye, J.

C052825 In re ESGARDO P.; THE PEOPLE v. ESGARDO P.

(Not for Publication)

The judgment is affirmed.

HULL, J.

We Concur: Sims, Acting P.J.
 Nicholson, J.

March 27, 2007

C051149 THE PEOPLE v. JOHANNESSEN

(Not for Publication)

The judgment is affirmed.

MORRISON, J.

We Concur: Scotland, P.J.
 Blease, J.

C051718 THE PEOPLE v. HERNANDEZ

(Not for Publication)

The judgment is reversed as to imposition of the one-year enhancements...and the cause is remanded for resentencing to permit the trial court to exercise its discretion to strike those enhancements if it so chooses. In all other respects, the judgment is affirmed.

HULL, J.

We Concur: Sims, Acting P.J.
 Nicholson, J.

C052855 THE PEOPLE v. BARTON

(Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

We Concur: Nicholson, J.
 Robie, J.

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- C053104 THE PEOPLE v. MARTINEZ (Not for Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Nicholson, J.
Robie, J.
- C053345 THE PEOPLE v. SIORDIA (Not for Publication)**
The judgment is affirmed.
Robie, J.
We Concur: Nicholson, Acting P.J.
Raye, J.
- C053358 THE PEOPLE v. BARNES (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We Concur: Scotland, P.J.
Raye, J.
- C051573 FORBES v. SPENCER et al. (Not for Publication)**
The judgment is affirmed in its entirety.
MORRISON, J.
We Concur: Davis, Acting P.J.
Nicholson, J.
- C051747 LOCKSHIN v. UNION PACIFIC RAILROAD COMPANY (Not for Publication)**
The judgment is affirmed. Union Pacific shall receive its costs on appeal...
SIMS, Acting P.J.
We Concur: Davis, J.
Cantil-Sakauye, J.
- C052823 ESCOVE et al. v. MERTZ et al. (Not for Publication)**
The judgment shall be amended to strike from it the language
“maintenance of a boundary fence.” As amended, the judgment is affirmed. The
Escoves shall recover their costs on appeal...
ROBIE, J.
We Concur: Sims, Acting P.J.
Nicholson, J.

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- C053006 SCOTT v. DEPARTMENT OF MOTOR VEHICLES**
(Not for Publication)
The judgment (order) is reversed. The department shall recover its costs on appeal...
ROBIE, J.
We Concur: Sims, Acting P.J.
 Nicholson, J.
- C052138 In re LUPE S.; THE PEOPLE v. LUPE S. (Not for Publication)**
The minor's maximum period of confinement is six years four months. The juvenile court is directed to amend its records accordingly and to forward to the Department of Corrections and Rehabilitation, Division of Juvenile Justice a certified copy of the amended order committing the minor. In all other respects, the judgment is affirmed.
RAYE, J.
We Concur: Blease, Acting P.J.
 Morrison, J.
- C052571 In re J.R.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. LISA H. (Not for Publication)**
The orders of the juvenile court are affirmed.
DAVIS, J.
We Concur: Scotland, P.J.
 Nicholson, J.
- C052829 In re C.A.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. MISTY
A. (Not for Publication)**
The orders of the juvenile court are affirmed.
DAVIS, Acting P.J.
We Concur: Hull, J.
 Robie, J.
- C050332 THE PEOPLE v. MAYTE (Certified for Partial Publication)**
THE COURT:
It is ordered that the opinion filed in this case on March 7, 2007, be modified...
... This modification does not change the judgment.
The petition for rehearing is denied.
FOR THE COURT:
SCOTLAND, P.J.
SIMS, J.
NICHOLSON, J.

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C050815 SPENCER v. DEPARTMENT OF WATER RESOURCES et al.
BY THE COURT:
Appellant's petition for rehearing is denied.
SCOTLAND, P.J.

March 28, 2007

C048138 THE PEOPLE v. RAMIREZ (Certified for Publication)
The judgment is affirmed.
ROBIE, J.
We Concur: Morrison, Acting P.J.
Hull, J.

C050605 THE PEOPLE v. BAROUDI (Not for Publication)
The judgment is affirmed.
NICHOLSON, J.
We Concur: Davis, Acting P.J.
Morrison, J.

C050835 THE PEOPLE v. CHAVEZ (Not for Publication)
The judgment is affirmed.
HULL, J.
We Concur: Sims, Acting P.J.
Nicholson, J.

C051201 THE PEOPLE v. THOMAS (Not for Publication)
Defendant's convictions for misdemeanor assault on counts one and two
are reversed. In all other respects, the judgment is affirmed.
RAYE, J.
We Concur: Sims, Acting P.J.
Morrison, J.

C051241 THE PEOPLE v. GAMA (Not for Publication)
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Davis, J.

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- C051324 THE PEOPLE v. TARA (Not for Publication)**
The judgment is reversed and the case is remanded to the trial court with directions to permit defendant to permit defendant to withdraw his no contest plea, to vacate its order denying the motion to suppress, to enter a new order granting the motion to suppress, and for further proceedings in accordance with law.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Cantil-Sakauye, J.
- C051542 THE PEOPLE v. PERRY (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We Concur: Sims, Acting P.J.
Morrison, J.
- C051753 THE PEOPLE v. MARTINEAU (Not for Publication)**
The judgment is affirmed.
SIMS, Acting P.J.
We Concur: Morrison, J.
Hull, J.
- C052527 THE PEOPLE v. LOR (Not for Publication)**
Defendant's convictions and sentence are affirmed except as to the trial court's order requiring defendant to pay attorney's fees. The matter is remanded to the trial court for further proceedings in accordance with part II of this opinion.
SIMS, J.
We Concur: Scotland, P.J.
Cantil-Sakauye, J.
- C052620 THE PEOPLE v. BROCK (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We Concur: Scotland, P.J.
Nicholson, J.
- C052783 THE PEOPLE v. RACY II (CERTIFIED FOR PUBLICATION)**
Defendant's conviction of felony elder abuse... is reversed... In all other respects, the judgment is affirmed.
ROBIE, J.
We Concur: Sims, Acting P.J.
Morrison, J.

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Hull, J.

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C052081 JACKSON v. DEPARTMENT OF MOTOR VEHICLES

(Not for Publication)

The judgment is reversed, and the trial court is directed to vacate its order granting the Department's motion for summary judgment and to enter a new and different order: granting the Department's motion for summary adjudication of Jackson's causes of action for racial discrimination and harassment...

... Jackson shall recover her costs on appeal...

ROBIE, J.

We Concur: Scotland, P.J.

Butz, J.

Having concurred in the majority opinion, I write separately to note that this case barely survives summary judgment on the second cause of action and part of the third cause of action in the first amended complaint. The inferences we have identified are tenuous at best, and it is unlikely that plaintiff will prevail at trial. Nevertheless, even tenuous inferences give rise to triable issues of material fact.

SCOTLAND, P.J.

C052159 JORDAN v. CITY OF SACRAMENTO (CERTIFIED FOR PUBLICATION)

The judgment is affirmed. (CERTIFIED FOR PUBLICATION.)

DAVIS, Acting P.J.

We Concur: Nicholson, J.

Robie, J.

C052286 MYERS v. TRENDWEST RESORTS, INC. (CERTIFIED FOR PUBLICATION)

The opinion in the above entitled matter filed on February 28, 2007, was not certified for publication in the Official Reports. For cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

(CERTIFIED FOR PUBLICATION.)

FOR THE COURT:

SIMS, Acting P.J.

DAVIS, J.

CANTIL-SAKAUYE, J.

**C054719 BARRAGAN v. THE SUPERIOR COURT OF YOLO COUNTY and THE
PEOPLE (CERTIFIED FOR PUBLICATION)**

The petition for writ of prohibition is denied.

SCOTLAND, P.J.

We Concur: Sims, J.

Cantil-Sakauye, J.

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C052286 MYERS v. TRENDWEST RESORTS, INC. (CERTIFIED FOR PUBLICATION)

The opinion in the above entitled matter filed on February 28, 2007, was not certified for publication in the Official Reports, For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. (CERTIFIED FOR PUBLICATION)

FOR THE COURT:

SIMS, Acting P.J.
DAVIS, J.
CANTIL-SAKAUYE, J.

March 29, 2007

C049130 THE PEOPLE v. CHRISTENSEN (Not for Publication)

The judgment is affirmed.

BUTZ, J,

We Concur: Scotland, P.J.

Davis, J.

C050147 THE PEOPLE v. BAUGHMAN (Certified for Partial Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Sims, Acting P.J.

Hull, J.

C052600 THE PEOPLE v. FRENCH (Not for Publication)

The judgment is affirmed.

SIMS, Acting P.J.

I concur: Robie, J.

I concur in the judgment and in the opinion except for part I where I concur in the result.

MORRISON, J.

**C049885 In re MARK B. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
C050371 AND HUMAN SERVICES v. LESLIE B. and WILSON and WOLFF**

(Certified for Partial Publication)

The judgment (order of sanctions and attorney's fees) is affirmed. Dale S. Wilson shall receive his costs on appeal...

SIMS, Acting P.J.

We Concur: Butz, J.

Cantil-Sakauye, J.

